STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellant,	UNPUBLISHED May 1, 2008
v	No. 276876 Washtenaw Circuit Court
KADE CHRISTIAN RICKETTS, Defendant-Appellee.	LC No. 06-001862-FH

Before: Bandstra, P.J., and Fitzgerald and Markey, JJ.

PER CURIAM.

The prosecutor appeals as of right from an order granting defendant's motion to dismiss or, in the alternative, to suppress evidence. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Someone reported a possible domestic dispute at a condominium complex, and indicated that it involved a red Jeep Wrangler and a five-year-old child. An officer observed a child in the back seat of a red Jeep Wrangler just outside of the complex, and stopped it. Defendant, the driver, was charged with operating a vehicle while intoxicated with an occupant less than 16 years of age, MCL 257.625(1) and (7)(a)(i).

The trial court concluded that there was no reasonable suspicion that criminal activity was afoot at the time of the stop based solely on viewing the vehicle and the child. We agree. In *People v Dunbar*, 264 Mich App 240, 247; 690 NW2d 476 (2004), this Court recognized that an individual could be stopped when the police have reasonable, particularized and articulable suspicion that crime is afoot. See also *People v Green*, 260 Mich App 392, 396; 677 NW2d 363 (2004) overruled on other grounds *People v Ansley*, 476 Mich 436; 719 NW2d 579 (2006). Moreover, a person may be detained on reasonable suspicion in an investigatory stop as long as the police are diligently pursuing a means of investigation that is likely to confirm or dispel their suspicions quickly. *People v Chambers*, 195 Mich App 118, 123; 489 NW2d 168 (1992). The stop of a motor vehicle may be based on fewer foundational facts than those necessary to support a finding of reasonableness regarding a house, *People v Oliver*, 464 Mich 184, 192; 627 NW2d 297 (2001); and a stop requires fewer foundational facts than both a stop and a search. *People v Christie (On Remand)*, 206 Mich App 304, 308-309; 520 NW2d 647 (1994). "The totality of the circumstances as understood and interpreted by law enforcement officers, not legal scholars, must yield a particular suspicion that the individual being investigated has been, is, or is about to be engaged in criminal activity," and "[t]hat suspicion must be reasonable and articulable." *People v Nelson*, 443 Mich 626, 632; 505 NW2d 266 (1993).

We conclude that the officer did not have a reasonable or particularized suspicion that defendant had been, was, or was about to be engaged in criminal activity when he stopped the vehicle. Indeed, even the officer indicated that he did not have reason to believe that a crime was afoot; he had been advised only of a domestic *incident* and had no information to suggest that it involved domestic violence. The reliability of the source does not appear to be relevant, as the source did not give any information that would have suggested that defendant was involved in anything more than a domestic incident. To the extent the officer may have suspected domestic violence, the present record does not support a finding that the suspicion was reasonable. All that was known is that someone called 911 and reported a domestic incident, and that it may have involved a red Jeep Wrangler and/or a boy. This information would be consistent with two people having an argument, and possibly even an argument about the child. However, without more, there was no reasonable suspicion of criminal activity. Had the officer delayed the stop while following the vehicle until more information could be gathered from the officer responding to the original complaint, additional information giving rise to a reasonable suspicion might have been acquired.

The prosecutor also argues that the stop was permitted to maintain the status quo pending further investigation. However, any such stop would, again, have to be premised on a reasonable suspicion of criminal activity. In *Chambers, supra* at 121-122, this Court stated:

> Whenever a police officer stops someone and restrains that person's freedom to leave, the officer has "seized" the person under the Fourth Amendment. *Terry v Ohio*, 392 US 1, 16; 88 S Ct 1868; 20 L Ed 2d 889 (1968). However, the constitution does not forbid all seizures, only unreasonable ones. *Id*. at 9. A brief stop of a suspicious individual, in order to maintain the status quo momentarily while more information is obtained, may be reasonable. *Adams v Williams*, 407 US 143, 146; 92 S Ct 1921; 32 L Ed 2d 612 (1972). . . .
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> In determining whether an "investigatory stop" is reasonable, the court must examine both the character of the official intrusion and its justification. [*Michigan v Summers*, 452 US 692, 701; 101 S Ct 2587; 69 L Ed 2d 340 (1981)]. Such an "investigatory stop" must be founded on a particularized suspicion, based on an objective observation of the totality of the circumstances, that the person stopped has been, is, or is about to be involved in criminal wrongdoing. *People v Shabaz*, 424 Mich 42, 59; 378 NW2d 451 (1985). See also *People v Armendarez*, 188 Mich App 61, 66-68; 468 NW2d 893 (1991).

Thus, even for an investigatory stop aimed at preserving the status quo, there must be a reasonable, particularized suspicion that the defendant was involved in a crime. Since the officer knew only that defendant may have been involved in an incident that may have been nothing more than an argument, the motion to suppress, and coextensively to dismiss, was properly granted.

We affirm.

/s/ Richard A. Bandstra
/s/ E. Thomas Fitzgerald
/s/ Jane E. Markey